

# **DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

## **INITIAL STATEMENT OF REASONS**

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2  
AMEND CHAPTER 4, ARTICLE 15, SECTION 1090

### **SPECIAL EQUIPMENT - WHEELCHAIR LIFTS (CHP-R-03-14)**

#### **PURPOSE OF REGULATIONS AND PROPOSED AMENDMENTS**

The California Highway Patrol (CHP) proposes to amend regulations in Title 13, California Code of Regulations (13 CCR), related to requirements for wheelchair lifts.

Section 2402 of the California Vehicle Code (VC) authorizes the CHP to adopt and enforce rules and regulations necessary to carry out its duties. The CHP adopted standards for wheelchair lifts for all buses except school buses in approximately 1979. These standards are contained in 13 CCR, Sections 1090-1095.

In adopting Section 34501.1 VC, the Legislature further directed all “wheelchair lifts for buses, school buses, youth buses, and general public paratransit vehicles, regardless of capacity” be certified by the manufacturer to the CHP that they meet “the California law and any federal law and the regulations adopted thereto.”

The National Highway Traffic Safety Administration (NHTSA) has now adopted standards into the Federal Motor Vehicle Safety Standards (FMVSS) for all wheelchair lifts intended for use on all motor vehicles, including all buses as well as private personal passenger vehicles. These standards are contained in FMVSS Nos. 403 and 404 (49 CFR 571.403 and 571.404). Under the FMVSS it is unlawful, after the effective date of the regulation, for any party to manufacture for sale any wheelchair lift for any motor vehicle that does not comply with the standard. It is further unlawful for any motor vehicle dealer to sell any new vehicle with a wheelchair lift installed that does not comply with the standard for both the wheelchair lift itself and the installation of the wheelchair lift in the vehicle.

Additionally, Section 24011 VC provides that: “Whenever a federal motor vehicle safety standard is established under the National Traffic and Motor Vehicle Safety Act ... no dealer shall sell or offer for sale a vehicle to which the standard is applicable, and no person shall sell or offer for sale for use upon a vehicle an item of equipment to which the standard is applicable, unless...

“Such vehicle or equipment conforms to the applicable federal standard,” and “The vehicle or equipment bears thereon a certification by the manufacturer or distributor that it complies with the applicable federal standards.”

The CHP now proposes to amend the standards contained in 13 CCR, Sections 1090-1095 to incorporate, by reference, the requirements contained in the FMVSS for wheelchair lifts. The effective date contained in the proposed amendment coincides with the effective date of the FMVSS. By proposing this regulatory action, the CHP’s purpose is to fully harmonize California regulation with federal regulation as required by the Motor Vehicle Safety Act, Chapter 301, Title 49, United States Code (49 USCS §§ 30101 et seq.), and to extend the benefits of the federal regulation to all wheelchair lift users.

In adopting the standards contained in the FMVSS into 13 CCR, the CHP notes that these standards apply to all wheelchair lifts intended to be installed in motor vehicles. Failure to comply with these standards is a violation of federal law. Consequently every manufacturer or installer of wheelchair lifts, whether intended for interstate or intrastate commerce is required to adhere to the federal standards. Therefore adopting these standards into 13 CCR will have no adverse economic impact on any manufacturer or installer of wheelchair lifts, since they are already required to comply with the federal standard by federal law. Adopting these standards into 13 CCR merely gives the CHP and allied agencies authority to enforce these standards.

## **SECTION BY SECTION OVERVIEW**

**1090. Scope** is amended to require that all wheelchair lifts produced or installed after December 27, 2004, the effective date of the FMVSS, to comply with the provisions contained in the FMVSS.

This section is additionally amended to permit wheelchair lifts produced after April 1, 1980, but before December 27, 2004, to comply with either the requirements currently contained in 13 CCR, or with those contained in the FMVSS. This provision is intended to give manufacturers and installers flexibility in designing, manufacturing and installing wheelchair lifts during the transition period in complying with the FMVSS.

## **STUDIES/RELATED FACTS**

None.

## **ALTERNATIVES**

The CHP has not identified any alternative, including the no-action alternative, that would be more effective and less burdensome for the purpose for which this action is proposed. Additionally, the CHP has not identified any alternative which would be as effective and less burdensome to affected persons other than the action being proposed.

### *Alternatives Identified and Reviewed*

1. Make no changes to the existing regulations. This alternative was rejected because it fails to comply with the preemption provisions of the Motor Vehicle Safety Act and the provisions of Sections 24011 and 34501.1 VC.

2. Repeal the existing regulations. This alternative was rejected because it fails to comply with the provisions of Sections 24011 and 34501.1 VC.

### **LOCAL MANDATE**

These regulations do not impose any new mandate on local agencies or school districts, other than those imposed by the FMVSS.

### **ECONOMIC IMPACT ON BUSINESS**

The CHP has not identified any significant adverse impact on businesses. Any additional costs to businesses are a result of the adoption of the federal standard.

### **FISCAL IMPACT TO THE STATE**

The Department has determined these regulation amendments will result in:

- No significant increased costs for manufacturers, installers or purchasers of wheelchair lifts or wheelchair lift-equipped vehicles, beyond that provided by the FMVSS. This rulemaking action will simply conform 13 CCR with the FMVSS;
- No significant compliance cost for persons or businesses directly affected, beyond that provided by the FMVSS;
- No discernible adverse impact on the quantity and distribution of goods and services to large and small businesses or the public;
- No impact on the level of employment in the state; and
- No impact on the competitiveness of this state to retain businesses, as these standards have been adopted at the federal level and apply uniformly to all states.